IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dt:7.2.2002

CORAM:

THE HONOURABLE MR.JUSTICE A.K. RAJAN

W.P.No.3475 of 1994

C.Jayaraman .. Petitioner

vs.

1. The Principal Commissioner
of Revenue Administration,
Ezhilagam, Chepauk,
Madras-600005.

2. The District Additional
Magistrate-cum-Additional
Collector, Salem District. .. Respondents

Petition filed under Article 226 of the Constitution of India, for the issuance of writ of certiorarified mandamus, as stated therein.

For Petitioner : Mr. R.Karuppan
For Respondents : Mr. M.Liyagat Ali, G.A.
For RR 1 and 2.

: O R D E R

This writ petition is for issue of writ of certiorarified mandamus to call for the records relating to the impugned order, dated 16.2.199 4 and quash the same and also to quash the order passed by the second respondent, dated 30.7.1993.

2. In the affidavit filed in support of the writ petition, the petitioner states that he is a reputed agriculturist. He is educated and socially conscious person. He is a man of means; he lives in his farm house. He applied for gun licence. Licence was granted and he possessed single barrel shot gun for self-protection and crop protection. Due to the unreasonable rise in the cost of ammunition, he found that it is uneconomical

to purchase cartridges. Therefore, he applied for muscle loading gun licence. This gun licence is given for asking. It is a last grade of fire arms. It is a gun used by the gypsies. The second respondent who ought to have granted the licence, rejected the plea of the petitioner on the ground that he has been given a licence already. The Arms Act only empowers the respondent to decide whether a person is worthy of possessing a firm arm. He is not empowered to decide as to how many weapon a person is entitled to possess. The number of weapon a person can possess is purely the choice of his. As per Section 3 of the Arms Act, an ordinary citizen is not entitled to possess more than three weapons. The rejection is invalid and against law. Therefore, this writ petition.

3. In the counter-affidavit filed by the respondent, it is stated that according to Section 3(2) of the Arms Act, 1959, no person shall possess more than three fire arms. It does not mean that every person who has a licence can have three weapons and it is not mandatory that the licensing authority should grant licence to all who require licence to possess upto three weapons, in all cases. Under Section 13(3)(ii)(b), the licensing authority shall grant a licence only if it is satisfied that the person by whom the licence is required has a good reason for obtaining the same. Therefore, as the petitioner was already in possession of a gun licence, the authorities satisfied that the request for possession of second licence for a second weapon was not to be granted. The purpose for which the petitioner seeks for second licence is achieved by the possession of the gun already in his possession.

4. Learned counsel for the petitioner submitted that as per the Arms Act, a person is entitled to possess not more than three guns. The only restriction is that he must not be an unsound person or he should not have misused the gun.

The authorities can cancel the licence for the reasons specified under Section 14 of the Arms Act. But the reason stated herein for rejecting the licence for a second gun is not one of the reasons mentioned in Section 14. In support of his contention, the counsel relied upon a judgment of this Court in W.P.2853 of 1993, dated 23.9.1994. In that case, to a person who was already in possession of three gun licences, a fourth licence was granted. Relying on this judgment, the counsel argued that there is no restriction whatsoever for granting a licence for a second gun.

5. The case cited by the counsel for the petitioner relates to a sportsman who was participating in a shooting competition. Clause (ii) of sub-section 3 of Section 13 is applicable to such sportsman as well as a member of a Rifle Club. Since the petitioner in that case was a member of the Rifle Club, licence for the fourth gun was directed to be granted. That decision is not applicable to the facts of the present case.

6. In the counter it has been stated that the authorities are empowered to reject the request for grant of licence. As per Section 13(3)(b), only,

"if the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same," licence can be granted.

7. A reading of Section 13 (3)(b) makes it clear that the licence cannot be granted automatically to every person who applies for it. Only if

the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same, it shall be granted. The licensing authority has rejected the request for second licence on the reason that he was already in possession of one gun and he does not require another gun. It is not a matter of right for every person to possess three gun licences at a time. It is for the authorities to be satisfied before grant of any gun licence and the reasons given therein cannot be said to be unacceptable. Therefore, the rejection of the application for licence cannot be said to be illegal. Hence, the writ petitioner cannot succeed.

8. In the result, the writ petition is dismissed. No costs. Consequently, W.M.P.5596 of 1996 is closed.

7.2.2002.

Index: Yes/No.
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